





# THE DAILY COMMONWEALTH.

FRANKFORT, WEDNESDAY, JAN. 13, 1847.

## KENTUCKY LEGISLATURE.

### IN SENATE.

TUESDAY, JANUARY 12, 1847.

The Senate was opened with prayer by the Rev. Mr. NORTON, of the Episcopal Church.  
Mr. WILLIAMS presented the petition of P. Bedinger, praying a repeal of the act to amend the law which provides for condemning lands for public purposes, which was read and referred.

On motion of Mr. THORNTON, permission was given to ask leave to withdraw from H. R. a bill to change the time of holding the spring term of the Jessamine circuit court.

Mr. HARDIN from committee on Judiciary, reported a bill, as a substitute for the bill for the benefit of Isaac Ayres of Todd county.

Also—a bill to extend the term of the Fayette circuit court, with an amendment; passed.

Also—a bill from H. R. for the benefit of John S. Page and others; passed.

Also—a bill from H. R. for the benefit of William and Ann E. Long; passed.

Also—a bill from H. R. for the benefit of Charles Hays—change of venue from Jefferson to Spencer, amended on motion of Mr. Healy, by inserting *Odium*, instead of *Spencer*, and passed.

Also—a bill from H. R. for the benefit of Richard Darneal, change of venue; passed.

Also—a bill from H. R. allowing an additional Justice of the Peace to Grant and Muhlenburg counties; passed.

Also—a bill for the benefit of Chas. H. Smith; change of venue; passed.

Mr. PATTERSON from same committee, reported a bill, to amend the charter of the Paducah Marine Railways; passed.

Mr. WALKER from committee on Propositions and Grievances, reported a bill from H. R. to change the name of John to Joseph Hoffman; passed.

Also—a bill from H. R. for the benefit of Artemesia and James Jones, change of names; passed.

Also—a bill from H. R. for the benefit of Joseph and Pleasant McClung, change of names; passed.

Also—a bill from H. R. for the benefit of Silidon Sydney Smith, change of name; passed.

Mr. J. SPEED SMITH from committee on Internal Improvement, reported a bill from H. R. for the benefit of James Cunningham of Trigg county, permitting him to build a dam across Little river, with an amendment making him responsible for any damage that may accrue to boats descending said river; passed.

Also—a bill from H. R. declaring Whippoorwill a navigable stream, with an amendment, providing that the act shall not be construed, so as to apply to, or interfere with any mill dam, or bridges, that may now be, or may hereafter be built across said stream; passed.

Also—a bill from H. R. declaring the Louisa fork of Big Sandy river a navigable stream; passed.

### Reports from Select Committees.

Mr. PEYTON from select committee, reported a bill providing for a special term of the Franklin circuit court to commence on the 18th day of January, to hear and determine the suit of Benjamin Hardin against the 2d Auditor, now pending in said court, and for a special term of the court of Appeals to commence the 25th day of January, to hear and determine any appeal that may be made in said case from the decision of the circuit court.

Mr. HELM had hoped that this subject would have passed off without the necessity of any remarks from him. His delicate position, in consequence of the relation he sustained towards one of the parties, would, under ordinary circumstances, induce him to remain silent. The peculiar facts of this case, however, forbade it. What are these facts? The Governor of Kentucky had created a vacancy in the office of Secretary of State, or had declared a vacancy to exist in that office, and appointed an individual to fill it. The Secretary of State had come here to appeal to the Judiciary, to sustain his rights; he had made that appeal—the case had been heard by the court, and the Judge, for reasons best known to himself, had postponed a decision. The Governor, voluntarily, has come into the Senate and spread a series of charges against the conduct, and character of the Secretary upon the public records. The Secretary has met and confronted these charges, and now, when the whole proof has been heard by the committee, it is asked to transfer the case to the Judiciary again. In this controversy the truth or falsity of certain charges against the Secretary is involved, and yet we have an intimation of an opinion from the Judge, to whom the bill on the table refers this case, that it is not proper for him to go into an investigation of that matter. (Mr. Helm here read an extract from the brief of Mr. Hardin's counsel in the trial in the Franklin circuit court.) In what condition, then, does this place the Secretary of State? The Governor says that a vacancy exists, and this is to be deemed conclusive, and no proof is to be heard. Mr. H. appealed to the Senate, whether a citizen charged with high public trusts could be branded with dereliction of duty, and there existed no tribunal with power to hear his defence. Will the Judge of the Franklin circuit court, now open the case for proof? Does the bill provide for it? And if he should be willing to do it, the witnesses, some of them residing at a considerable distance, have gone, and their presence again, could only be procured with great difficulty, if at all. All the facts are in possession of the committee; and shall the case in its present stage, and under all these circumstances, be sent back to the Judiciary? This was not an entirely new case. The Governor of Kentucky, had before this, assumed the exercise of powers which did not belong to him, some 15 or 20 cases could be found recorded in the public archives—all remembered the case of Bruce and Fox. Mr. H. referred to the Illinois case, one very similar to the present, in which the Senate had given an opinion, and the courts afterwards quoted, and relied on that opinion. In this case the Governor had declared, that a vacancy existed in the office of Secretary of State, and had communicated to the Senate the facts, upon which he predicated that declaration. Would the Senators now throw off the responsibility of an inquiry into the truth of those facts? Besides, does any Senator know, whether, Judge Brown is prepared to give a decision in this case. Has he been so communicative as to disclose to Senators or others, that he is willing and ready to do now, what his convenience or inclination would not permit him to do at the last regular term of the court? If he is not disposed to do it now, can you compel him to give a decision? Can you compel the Judges of the court of appeals to come here and sit in this case? One of them passed through this place a few days since on his way to the South, and another resides at a distance, and yet the bill provides for the sitting of the court on the 25th inst.—The Governor has brought the case before the Senate; it has been met by the Secretary before the Senate, and shall he now be thrown back to the court, to await its dilatory proceedings. An early settlement of the question is important. The constitution makes it the duty of the Secretary to attest all official acts of the Governor, and no legislation can be full and complete, without this attestation. Mr.

H. appealed to Senators to come up and decide the question. It was ready for their decision, and the best way to quiet any dissension and restore perfect harmony, was to decide the question at once. If it should be against the Secretary, he would be the man he ever had been, and go home satisfied that Senators, acting under a high sense of duty, had conscientiously discharged their obligations to the constitution and the country. But to be tossed to and fro in the manner attempted, was trifling with his feelings and his rights. Whence did the Parthian dart lurk at him emanate? The bow was strung by the Executive power, and the fatal arrow aimed by one, who should have been the last to have lifted his hand to send home the deadly missile. Well might the Secretary exclaim, *"Alas, Alas!"* A great battle was to be fought, and Ajax was summoned to the field. Like true knights, he and his friends had buckled on their armor, and entered the lists. And now what do we see? He who strove in the front of the battle, and acted so conspicuous and important a part in achieving the victory, is brought here loaded with charges of misconduct, while the little ones, who were never seen or heard of in the fight, are now the favorites of the powers that be—they now come in, ravenous and hungry to feed upon the carcass of the dead lion.

Mr. PEYTON had heard with astonishment, the speech of the Senator from Hardin. That Senator had not, as he usually does, met the question fairly and boldly. If he had read the provisions of the bill, it would have prevented the necessity of his speech. The bill did not provide for a change of the question from the Senate to the Judiciary, and it was unfair, by a course of argument to fix such an impression on the minds of Senators. He agreed with the Senator from Hardin as to the necessity of a speedy settlement of this question; but they differed very materially as to the manner of that settlement. The Senate could not settle it. They may declare that the Governor has usurped a power which the Constitution does not clothe him with, but it will be a mere idle, empty expression of opinion, which can have no obligatory force. The result of it may be an impeachment of the Governor, and then in what an attitude would the Senate be placed, having prejudged the case without the terms prescribed by the Constitution? No action of the Senate could restore Mr. Hardin to the office of Secretary of State. Nothing that the Senate might or could do, would conclude the rights of either the Governor or Secretary. The bill provides for a reference of the question to the only tribunal which can constitutionally settle it, and give a final decision which shall bind the parties. It does not, however, preclude the investigation pending in the Senate. Mr. P. would not go into a discussion of the merits of the case, involving the constitutional power of the Governor. He desired a speedy settlement of this whole question, and thought that it could only be obtained in the mode pointed out in the bill under consideration. The Senate might decide the question, but had no power to enforce its decision. It could only express an opinion, and the Governor might conform to it or not, at his discretion. He would throw no obstacle in the way of the progress of the investigation going on before the committee. Let it proceed, but let not Senators dodge the question presented in the bill before the Senate, and attempt to excite and array prejudices, by reference to that investigation.

Mr. BUTLER—The bill under consideration presented a novel and extraordinary proposition. There were, perhaps, 150 or 200 causes on the docket of the Franklin Circuit Court, and among them a rule against the 2d Auditor, on the application of Benj. Hardin, to show cause why a peremptory mandamus should not issue against him, directing him to issue a warrant for the payment of the said Hardin's salary as Secretary of State—a private question between Mr. Hardin and the 2d Auditor, touching the emoluments of an office. The court, at its last term, for reasons best known to itself, had failed to render an opinion in this case. And now, from amid all the causes involving private rights pending in that court, without petition from either party, and against the consent of at least one of the parties, the Senate proposes to select from the calendar, one of these causes, and call a special term of the court to decide it, and a special term of the Court of Appeals to hear and determine any appeal that may be taken. This is indeed a novel and unprecedented proceeding. If he had a private suit pending in that court, and the Senator proposed to force him into a trial of it without his consent, he should deem it a lawless interference with his rights as a citizen. The Legislature had no right to pass any such bill. The manner too, in which it was to be achieved, was as extraordinary as the proposition itself. In six days the trial was to commence. How were the parties to be notified? It would take three days to pass the bill in the Senate—three more at least in the House of Representatives, for a larger body could not be expected to move more rapidly than a smaller one—it must then go to the Governor for his signature—and thus the whole period is consumed; the court must be convened *ad interim*, and the parties must be present at the moment or forfeit their rights. Was ever such a thing heard of? But the Legislature cannot compel the court, by a mandate, to give a decision in the case.

Mr. PEYTON here interrupted Mr. Butler, to make an explanation. He did not say the Legislature could by a mandate, direct the court to convene and give a decision in the case. The bill before them, when it should have passed through its several stages, would be a law, and not a mandate.

Mr. BUTLER understood the force of the language he used. He was addressing the Senate and not a court of law, and was not bound to a technical sense of the terms he might employ. He used the term mandate in its vulgar signification and as such, it was applicable to the bill under consideration. It ordered the Judge of the Franklin Circuit Court and the Judges of the Court of Appeals to hold special terms of their respective courts at times designated in the bill for the trial and decision of this particular case. It was not merely *permissive*—that would leave it to their discretion—it was mandatory.

He repeated, the Senate could not, by its mandate, compel the Judge of the Franklin Circuit Court to decide the case. But suppose he is willing to do so. The bill then directs the Court of Appeals to convene within one week from the commencement of the session of the Circuit Court. One of the judges of that court has left the State, and you compel the parties to submit the case to the remaining two; one of whom may have made up an opinion against one of the parties, and the other may be in doubt upon the question. One of the two judges, however, now in the State, resides at a distance of 150 or 200 miles from the capital, and it would be impossible to write for, and get him here within a reasonable time. But the object of the mover of the bill is a speedy settlement of the question. If the Circuit Judge decides against the Auditor, he may submit; but the claimant has shown no disposition to submit to what he considers an aggression upon his rights. If it be then decided against him, this Senate cannot compel him to appeal before the time now allowed him by law expires. Any such legislation would be partial and corrupt, and it would be a sacrifice of his rights, which the Legislature has no power to make. The proposed law would, therefore, have the same character ascribed by the Senator from Breckinridge, to the action of the Senate—it would be a barren and fruitless act. He was happy to hear the declaration of that Senator, that this proposition was not intended

to arrest the pending investigation in the Senate. The questions had been properly presented there, and the Senate had no right to shun them off. The decision of the Senate would be no farce, no empty pageant, as had been represented—it would be productive of good fruits. The Senate cannot restore Mr. Hardin, but it can advise and consent to the nomination sent in by the Governor, or it can refuse so to advise and consent. Upon this question, the Senate is bound to act, and its decision will be final. The Governor cannot appoint public officers, he can only recommend suitable persons to the Senate, and its concurrence is necessary to the appointment; On the other hand, the Senate cannot pass laws—they can only suggest them, and the Governor's consent is necessary to their consummation. He has the same power over the acts of the Legislature that the Senate has over his nominations. The decision of the Senate there will not be an idle ceremony. It would not go into a discussion of the constitutional question. It would accord to the venerable incumbent of the Executive office the most perfect integrity and unimpeachable patriotism; and was sorry that any allusion had been made to a probable impeachment. No such thought, he was sure, had entered into the breast of any Senator. He might differ with him upon a great constitutional question, but he would not impugn his motives. He would require far stronger testimony to make him believe that the Governor was actuated by improper or corrupt motives, than to change his opinion upon a constitutional question of power claimed by the Executive. Of the integrity and patriotism and public spirit of the venerable Chief Magistrate, he had a definite opinion, founded upon an acquaintance of long standing; and from his experience and capacity as a jurist, he would differ with him upon any constitutional question with a wholesome distrust of his own ability. But whatever opinions he might form, would be made up after calm reflection and mature deliberation, and he would then pronounce them boldly and fearlessly, there and elsewhere.

Mr. BOYD had at first doubted, but further reflection had convinced him of the expediency and propriety of passing the bill under consideration. Who are the parties? The interest of the immediate parties to this controversy was comparatively small. They hold public offices, for the benefit not of themselves, but the Commonwealth, and the Commonwealth, represented here by the Senate, has a right to interfere, and see that her rights are fairly disposed of. The proof is now closed in the courts, and the case ready for decision; and the parties could not be prejudiced by a reference of the case, as proposed. There are three great departments of the government—executive, legislative, and judicial. It is the business of the Judiciary to apply the remedies which the Legislature has provided for the redress of grievances complained of. The Senate has no right to apply them. Mr. Hardin was an accomplished jurist, and he had sought the proper tribunal. Let that tribunal decide the question. If it decides in his favor, nothing less than a successful impeachment can deprive him of the rights or emoluments of the office, even though the Senate should confirm the nomination of Mr. Kinkead, as Secretary of State. The decisions of the courts are above and beyond the control of the Legislature. That question had been fought and decided in this State years gone by, in the memorable old and new court struggle. He stood perfectly indifferent as between the parties here, and he should discharge his duty as a Senator, without fear, favor or affection.

Mr. PARKER C. HARDIN asked the indulgence of the Senate for a few minutes. He stood in a peculiar relation to one of the parties concerned, and it might be thought by some that he had too much feeling in the matter to discharge his duty as a Senator. He could not, however, occupying the position he did, suffer the occasion to pass, without some remarks. He concurred with the Senator from Jefferson, that this was a most extraordinary and novel proceeding. What was it? Attempting to force a citizen, by an act of the Legislature, into a hurried trial of a private suit in a court of law. It cannot be done. It is emphatically a case between Benj. Hardin and Thos. S. Page. The Senator from Fleming cannot believe that Mr. H. would be bound by this law to proceed with his suit, and that he could not dismiss it if he chose to do so. Have Senators any intimation from the Judge of the Franklin Circuit Court, that he is ready now to decide this question? The character of that gentleman forbids the idea that he has given any such intimation to Senator or private citizen. The Senate cannot force him to decide it. Will the Court of Appeals obey this mandate? The bill will amount to nothing at last. In order that full and perfect justice may be done, this question, whenever and wherever it may be decided, should present all the facts of the case. The Circuit Judge has intimated, that he will not inquire into the truth of the charges brought against the Secretary of State. The Senate certainly has this right, and should not be deterred from exercising it. The Executive forced Mr. Hardin here. The Governor's message, containing charges against the character of Mr. Hardin, has gone abroad on the wings of the wind, and yet the Secretary is not to be heard in his defence. Mr. H. would not deny this privilege to the meanest and poorest individual on earth. If those charges are true, he deserves to be consigned—if they are false, the people have a right to know it, and he has a right to claim a hearing from the Senate to remove the impressions made in the community. He would not say that the Senator from Breckinridge wished to deter Senators from proceeding with the investigation, as he had disclaimed it; but such was the evident tendency of his remarks. He had said the Senate in acting now would prejudice the case, in the event of a subsequent impeachment of the Governor. There is not so far as he knew or believed, any disposition or intention to present articles of impeachment against the Governor. The Senate's decision then, will have no such effect—Whatever it may be, the Secretary will submit. He only desires an opportunity for defence, and a fair and impartial hearing. This he has the right to demand, and with the result, be it as it may, he will be satisfied. The Senator from Breckinridge says the courts alone can give a final decision in the case. This amounts to a declaration made in this chamber a few evenings since, that let the Senate decide as it may, the Governor will not abide by it unless it suits him.

Mr. PEYTON rose to make an explanation. He had not said that the Governor would not submit—he had not said or conversed with the Governor on the subject, and had no intimations of his intentions.

Mr. HARDIN had not represented that the Senator from Breckinridge had said that the Governor would not submit to the decision of the Senate, but had said, and would repeat, that his argument led to it; and taken in connection with a declaration in this chamber, a few evenings since, was conclusive with him as to the intention of the Governor. But whatever that intention may be, the apprehension of it should have no effect here, and now. The sum of the whole matter is, that the Senate cannot force Mr. Hardin or Mr. Page into trial—it cannot force the Judge of the Franklin Circuit Court, or the Judges of the Court of Appeals to decide the case. The bill, therefore is useless. Let the Senate decide the question, and to its decision the Secretary and his friends will cheerfully submit.

Mr. HELM did not wish Mr. Hardin to be placed in an attitude of seeming to hold on to an office.—When the bill was introduced, he apprehended that

its object and the design of the mover was to suspend the investigation in the Senate. They wanted the opinion of the Senate. If it should be against Mr. Hardin, he would submit. Mr. Hardin did not wish to stickle for a contemptible office. If he could be punished in any other way than by dishonor, for accepting it, he ought to be. Lay this bill on the table, and if afterwards difficulties should occur in the final settlement of the question, he would be willing for a submission of the case to the General Court. Mr. Hardin did not desire to disturb the harmony of legislation, but he did want, and it is all he asks, to be heard in his defence.

Mr. HELM moved to lay the bill on the table, and upon this motion the yeas and nays being called, were as follows, viz:

YEAS.—Messrs. Ballard, Bradley, Bramlette, Brien, Bristow, Butler, Draffin, Hardin, Harris, Hawkins, Healy, Helm, James, Marshall, Patterson, Rice, Russell, Slaughter, J. Speed Smith, South, Swope and Thurman—22.

NAYS.—Messrs. Boyd, Crenshaw, Evans, Fox, Henderson, Holloway, Key, McNary, Peyton, Taylor, Thornton, Todd, Walker, Wall and Williams—15.

On motion of Mr. J. SPEED SMITH, Mr. McNary was added to the committee on Internal Improvement.

The SPEAKER laid before the Senate communications from the Governor, making nominations as follows:

Sundry officers in the militia; approved.

E. C. Phister, as Mayor of Maysville; approved.

Geo. E. Chadwick, Sheriff of Lawrence county; approved.

A resolution was passed informing the H. R. that the Senate would be ready on to-morrow at 11 o'clock, to receive the articles of impeachment in the case of John A. Duff, Surveyor of Perry county.

On motion the Senate adjourned.

### HOUSE OF REPRESENTATIVES.

Prayer by the Rev. Mr. WATERMAN.

The Journal of yesterday was read by the Clerk. In the report of the evening session of yesterday, the following was omitted:

The select committee, to whom was referred the prosecution of the impeachment of John A. Duff, Surveyor of Perry county, presented to the House a list of the charges preferred against him; and were instructed by a resolution of the House, to lay them before the Senate for trial, and to conduct the prosecution before that body.

Petitions were presented by Messrs. Owens, Haggard, McCallister, Young, Hay, Graves, Bowman, Dickerson, Crockett, Covington, Poor, Board, Soery, Moore, White and Steele, which were appropriately referred.

A message was received from the Senate, announcing the passage of sundry bills, amendments, and resolutions.

The Chairman of the Committee on Enrollments reported the enrollment of sundry bills, which thereupon received the signature of the Speaker.

The House then went into committee of the whole, Mr. McHENRY in the chair, on the bill for the removal of the County Seat of Mason county.

Mr. BEATTY continued in opposition to the proposed removal. After reviewing his argument made on yesterday, he alluded to the pledges of the candidates for the Legislature during the last canvass. They did not concede that a bare majority in the county should be permitted to change the County Seat. The friends of Washington always contended that it was a matter for the Legislature to decide what majority was competent to remove a County Seat. He then came to what he considered one of the most important questions involved in this controversy. It was, what was the number of legal voters in the county at the time the vote was taken? Two numbers are insisted on by the parties: 3,044 and 2,811. He contended that the former number was the true one. The items which make up this number were named. The Sheriff had not performed his whole duty in returning the number of voters in the county. He had performed all that was for the benefit of Maysville, and neglected that which was in favor of Washington. It was evident, therefore, that 3,044 was the true number of voters in the county. This being the number, Maysville has received but a majority of one.

The next question was, whether the Commissioner's books should be *prima facie* evidence to the Sheriff in making his report. If it was, then Maysville had received a majority of but one. He contended that this was the case, and established it by an examination of the act authorizing the vote to be taken. It was a serious question, whether the vote as it was taken, was fair and legal. Several cases were cited where illegal votes were given. These were not proven before the committee. No time was allowed to make such proof, or to give the notice necessary to those concerned. The select committee decided that it had no power to determine the legality of the votes given.

Mr. B. urged that there was not a majority of the substantial, tax paying population of the county voting in favor of Maysville. If it is contended on the other side, that there were illegal votes cast in favor of Washington, it only proves that the door should not be shut down upon all investigation, but that it should be invited and encouraged.

He invited the attention of the Committee to some statistics of the county, and of the votes cast upon this question. Leaving out the precinct of Maysville and the vote of Washington, and the vote of the remainder of the county stands, for Maysville, 642, and for Washington, 1184. Throw out all the votes of the city of Maysville, and the town of Washington, and there remains a majority in favor of Washington of 260 or 270. The injury which would result to Washington, proportionate to the advantage gained to Maysville by the change proposed, was urged upon the committee, and the absolute right of majorities to rule in all cases questioned. The consequences were detailed, which would result from the change. A new county would be demanded by those living in the remote parts of the county. Other towns upon the river, this precedent being established, would demand a like change in their respective counties, and applications for the removal of county seats, and the division of counties would become extremely numerous. Mr. B. concluded by giving a summary of his arguments, and returning thanks for the courtesy of the House.

Mr. WALLER followed in favor of the change to Maysville. It would be supposed from what had been said, that Maysville relied alone upon the decision of numbers. Although they had that in their favor, yet he was not afraid to meet the question upon what the gentleman was pleased to call its merits. The gentleman had said that he stood here, the representative of twelve hundred of the people of Mason, and of the widows of Washington. It was a delicate question. It was one which appealed to the sympathies of the House. No one was more affected by such appeals than himself; but he believed in the present instance sympathy would yield to facts. The widows who owned real estate in Washington, owned only residences. They had purchased them at greatly reduced prices—they did not depend at all upon boarding for a living, and could not at all be affected by a change in the location of the county seat.

Maysville was a growing, flourishing place—it was the depot for the produce of the country, and its commercial mart—it had three of the best constructed turnpikes in the State centering in it—and was

the only proper place in the county for a county seat. The interests of the city were not separate from those of the county; but they were one and indivisible.

It was the interest of litigants, witnesses and jurors to settle their litigation in the same place where they transact their business. It was the case now that they visited Maysville to transact their business while they were at court at Washington. He had hoped that no foreign matters would be involved in this controversy. But he was disappointed. The alarm which his opponents had attempted to excite on the danger of a division of counties, was a ridiculous idea. It had no existence in fact in any part of the county.

The first public movement made in Mason county concerning a change in the county seat, was made in Washington. They proposed to submit the matter to the vote of the people.

The preamble to the act of last winter, proves that the matter was to be decided by a majority of votes and petitioners in the county.

A certificate signed by several members of the last Legislature, proves that this was their understanding of the act. That result has been achieved, and a clear majority given for Maysville. It was declared by his opponent in the canvass of the county, that a majority—even of one—should decide the question.

Mr. W. next spoke of the number of voters claimed by the friends of Washington as being in the county. The estimate was too large. It was larger than the number stated some time ago in the memorial of the gentlemen themselves. But he was willing to take the sheriff's report as it was, or as it ought to have been—not at all—in either case Maysville would have a majority. (Here an alarm of fire being raised in the hall) Mr. WALLER gave way to a motion of adjournment. The committee having obtained leave to sit again, the House adjourned.

## FRANKFORT.

WEDNESDAY, JANUARY 13, 1847.

FIRE.—The building set apart for the use of the servants at the Weisiger House, took fire on yesterday, about 2 o'clock, and was partially destroyed.

It is rumored in Washington, that the Frigate *Congress*, has been lost in the Pacific Ocean and all on board of her. The rumor is not generally credited.

The refusal by the House of Representatives to tax tea and coffee by a vote of more than two-thirds, is a virtual declaration that they have no confidence in Mr. Secretary Walker, or his measures, and in truth, have very little in the President.

### BY YESTERDAY'S MAIL.

### LATE & IMPORTANT FROM THE SEAT OF WAR!

From the New Orleans Picayune of the 1st inst.

By the arrival, at a late hour last night, of the U. S. steamer Edith, Capt. Couillard, we have three days' later dates from Brazos Santiago. She left Brazos on the 30th ult., and brings confirmation of the reported advance of Santa Anna with a large force, upon Saltillo. It was reported that the Mexican army was nearly 39,000 strong.

When Gen. Worth's express reached Monterey, Gen. Taylor had only gone six or eight miles on his march to Victoria, and the troops under Generals Twiggs and Quitman were but twelve miles in advance. Orders were immediately issued in this division to retrace its steps and proceed at once to Saltillo.

Gen. Butler, who was in command of Monterey had already marched, with all the troops he could collect to join Gen. Worth at Saltillo.

Before the express reached Camargo, Gen. Lane had started for Saltillo, with his command; this was on the 20th. Gen. Marshall set out next morning taking with him the remainder of the forces, with the exception of Capt. Hunter and Swartwout's commands, which were left to protect the point. The troops from Camargo were on forced march, to reach Saltillo in time for battle, reports having prevailed for several days before positive advices were received, of the movements of Santa Anna.

Gen. Wool was ninety miles from Saltillo, at the last advices from him, and it was supposed he would join General Worth in season to assist in repelling the enemy.

There was a rumor that Santa Anna had thrown a body of 17,000 men between Gen. Worth and Gen. Taylor, to prevent a junction of the American forces. This report was not credited, nor does it seem probable that it is true, as the main road to Monterey passes through Saltillo. There is a circuitous mountain road which avoids Saltillo, but it is not favorable to the march of an army, and is impracticable for ordnance.

It was the impression of gentlemen who came passengers in the Edith, and with whom we have conversed that a battle was fought about the 25th ult. It was thought, however, that Gen. Taylor had reached Saltillo before that time, and also Gen. Twiggs's, Gen. Quitman's, Gen. Butler's and Gen. Wool's commands. It was likewise hoped that the troops from Camargo would also arrive at Saltillo, in good season. If these expectations were realized, Gen. Taylor had about seven thousand men to oppose to Santa Anna. Our informant thinks that Santa Anna's army was overrated; but no positive knowledge was had of his exact numbers.

The whole valley of the Rio Grande was in a state of great ferment. Apprehensions of an attack were entertained at Camargo, Matamoros, and other points, from the *rancheros* under Canales. The withdrawal of so many troops from the river left the valley exposed to danger. At Matamoros, Col. Clarke had called upon the citizens to enroll themselves for service, and at the Brazos Gen. Jessup had done the same thing. Both these points were sadly deficient in both men and arms. It was thought that Canales had 2000 men under him, and that the large supply of goods at Matamoros, and the exposed condition of the city, might quicken his courage.

Gen. Scott arrived at the Brazos on the 28th ult. The following day he proceeded to the mouth of the Rio Grande, and was yet at that point when the Edith left, waiting the arrival of the horses belonging to the regiment of mounted riflemen, when it was understood he would proceed immediately up the river to Camargo.

A letter from a gentleman at Tampico dated Dec. 23, 1846, addressed to a friend in New Orleans says:

That the Mexican Congress have decided that the war shall not cease, nor will they receive commissioners to treat for peace until every hostile foot has left the soil of Mexico and every ship that lines the coast is withdrawn. They have further resolved that they will accept of no foreign intervention whatever, to bring about a peace.

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